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NEW DELHI, SATURDAY, NOVEMBER 25, 2000/AGRAHAYANA 4, 1922

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (iii) PART II—Section 3—Sub-section (iii)

केन्द्रीय अधिकारियों (संघ राज्य क्षेत्र प्रशासन को छोड़कर) द्वारा जारी किये गये आदेश और अधिसूचनाएं
Orders and Notifications issued by Central Authorities (other than the Administrations of Union Territories)

भारत निर्वाचन आयोग

नई दिल्ली, 10 अक्टूबर, 2000

आ.अ. 184.—निर्वाचन आयोग 1999 की अर्जी सं. 1
में गोहाटी उच्च न्यायालय का निर्णय/आदेश लोक प्रतिनिधित्व
अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण
में एतद्द्वारा प्रकाशित करता है।

(निर्णय/आदेश अंग्रेजी में छपा है।)

[सं. 82/असम-लो. स. / (1/199) 2000]

आदेश से,

के. जे. राय, सचिव

ELECTION COMMISSION OF INDIA

New Delhi, the 10th October, 2000

O.N. 184.—In pursuance of Section 106 of the Representa-
tion of the People Act, 1951 (43 of 1951) the Election
Commission hereby publishes the judgement/order dated
18th August, 2000 of the Gauhati High Court in Petition
No. 1 of 1999.

THE GAUHATI HIGH COURT

(High Court of Assam, Nagaland, Meghalaya, Manipur,
Tripura, Mizoram & Arunachal Pradesh)

ELECTION PETITION NO. 1 OF 1999

AND

CIVIL MISC. CASE NO. 28 OF 2K

Shri Ram Prasad Sarma,
son of late Hari Narayan Sarma,
resident of BK Kakati Road,
Ulubari, Guwahati-781 007.

Petitioner

Versus

1. Sri Mani Kumar Subba,
resident of Harmoti, PO Harmoti
District-Lakhimpur, Assam
(Applicant in Civil Misc. Case No. 28/2K)
2. The Deputy Commissioner/
Returning Officer, Sonitpur,
District, Tezpur, Assam
3. The Chief Electoral Officer,
Assam, Dispur, Guwahati, Assam

4. } Deleted vide Court's order
5. } dated 9-5-2K
6. }

7. Dr. Kokheswar Bora,
resident of Chariali Town
PO Chariali, District-Sonitpur,
Assam.
8. Sri Kul Bahadur Chhetri,
resident of Margherita,
District-Tinsukia, Assam.
9. Sri Vivek Das,
resident of Kuliarabari,
PO Aragaon, District-Sonitpur,
Assam.
10. Sri Mohibullah,
RG Batua Road, Guwahati-781 024,
Assam.
11. Sri Abdul Khyer,
Nij Biswanath, Biswanathghat,
District-Sonitpur, Assam.
12. Shri Ilman Tanti,
resident of Hatli T.E.,
PO Hatli, Khumtai, District-Golaghat,
Assam.
13. Sri Kanak Khound,
resident of Rupaknagar,
PO Tezpur, District-Sonitpur.
14. Sri Sayed Hussain Ali Sah,
resident of Ward No. 6,
Dhekiajuli, District-Sonitpur.
15. Sri Nur Zaman Ahmed,
resident of Kalakuchi,
District-Sonitpur, Assam.
16. Sri Puina Narayan Sinha,
resident of Ward No. 12,
Tezpur, Sonitpur, Assam.
17. Sri Joseph Kundulna,
Likapriya Gopinath Bordoloi,
Mental Ashram, Tezpur,
District-Sonitpur, Assam.
18. Smt. Helena Mumur,
Ward No. 2, Nambari Colony,
Guwahati.

... Respondents

PRESENT :

The Honble Mr. Justice A. K. Patnaik.

For the petitioner : Mr. B. K. Das, Senior counsel,
Mr. P. K. Roy Choudhary, Ms. R. B. Deb, Mr. B.K.
Kar, Advocates.

For the Respondent No. 1 : Mr. N. Dutta, Senior
counsel, Mr. P. Upadhyaya, Mr. H. B. Sarma,
Ms. Barnali Bhuyan, Advocates.

Date of hearing : 20-6-2K

Date of Judgment : 18-8-2K

JUDGMENT AND ORDER

The petitioner in Election Petition No. 1 of 1999 was a candidate for No. 9-Tezpur Parliamentary Constituency in the elections held in September-October, 1999. In the said election, the respondent No. 1 was declared elected on 7-10-1999, from the said Parliamentary Constituency. The petitioner has alleged in the Election Petition that the respondent No. 1, his agents and his people have resorted to large-scale rigging and booth capturing in different polling stations and have therefore adopted corrupt practice in the aforesaid election. Prayers have been made in the Election Petition to declare the election of the respondent No. 1 to be void, and to declare the petitioner to have been duly elected. A prayer has also been made in the Election Petition for re-counting of votes. On 4-2-2K notices were issued to the respondents. After receiving notice, the respondent No. 1 has filed Misc. Case No. 28 of 2K with a prayer to dismiss the Election Petition under section 86 of the Representation of People Act, 1951. (for short, "RP Act, 1951"). The said Misc. case was heard on 20-6-2K.

2. At the hearing of the Misc. case, Mr. N. Dutta, learned senior counsel appearing for the respondent No. 1, submitted that section 86(1) of the RP Act, 1951, provided that the High Court shall dismiss an election petition which does not comply with the provisions of section 81 or section 82 or section 117 of the said Act, 1951. Section 81(1) of the RP Act, 1951, provided that an election petition has to be filed within forty-five days from the date of election of the returned candidate. In the instant case, the date of election of the respondent No. 1 was 7-10-1999 and forty-five days from the date of said election expired on 21-11-1999, but copy of the election petition served on the respondent No. 1 shows that the verification was signed by the petitioner on 28-11-1999. According to Mr. Dutta, therefore, the election petition does not comply with the provisions of section 81(1) of the RP Act, 1951 and is liable to be dismissed under section 86 of the said Act, 1951. It was next submitted by Mr. Dutta that section 82 of the RP Act, 1951, provided that the petitioner shall join as respondents to the election petition all the contesting candidates other than the petitioner where he claims a further declaration that he himself or any other candidate has been duly elected. One of the contesting candidates in the election petition to the No. 9-Tezpur Parliamentary Constituency held in September-October, 1999 was Sri Abul Khayer, but said Sri Abul Khayer has not been made a respondent to the election petition and in his place one Sri Abdul Khyer has been impleaded as respondent No. 11. In this context, he argued that on account of such wrong description of the contesting candidate, Abdul Khayer, notice on respondent No. 11 has not been served as yet though sent by Registered post with A/D. According to Mr. Dutta, therefore, there is non-compliance with the provisions of section 82 of the RP Act, 1951 and the election petition is liable to be dismissed under section 86 of the said Act, 1951. Finally, Mr. Dutta, learned counsel appearing for the respondent No. 1, submitted that on a reading of the election petition, it would be clear that the petitioner has alleged corrupt practice on the part of respondent No. 1 and on this ground has prayed for a declaration that the election of respondent No. 1 is void and in support of the said allegation of corrupt practice has filed an affidavit sworn before the Commissioner of Oath. But the endorsements made by the Commissioner of Oath have not been copied out in the copy of the affidavit served along with the copy of the election petition on the respondent No. 1. Mr. Dutta argued that under section 81(3) of the RP Act, 1951, every election petition is to be accompanied by as many copies thereof as there are respondents mentioned in the petition and every such copy has to be attested by the petitioner under his own signature to be a true copy of the petition. In the present case, the copy of the election petition along with the affidavit which has been filed for the purpose of respondent No. 1 under section 81(3) in so far as it does not contain the endorsements of the Commissioner of Oath, is not a true copy of the election petition. Hence, section 81(3) of the RP Act, 1951, has not been complied with and the election petition is liable to be dismissed under section 86 of the said Act, 1951. In support of this contention, Mr. Dutta relied on the decisions of the Supreme Court in DR SHIPRA (SMT.) Vs SHANTI JAL KHOIWAL, (1996) 5 SCC 181, HARCHARAN SINGH JOSHI Vs HARI KISHAN, (1997) 10 SCC 294, TM JACOB Vs C. POULOSE, (1998) 2 SCC 31, and TM JACOB Vs. C. POULOSE, (1999) 4 SCC 272.

3. In reply, Mr. B. K. Das, learned senior counsel appearing for the election petitioner submitted that the Misc. case petition should not be entertained by this court as the same has not been signed by the respondent No. 1. He contended that the respondent No. 1 has not put his name in the Misc. Case petition and has only made a mark which does not indicate his name. Such a mark made in the Misc. Case petition, according to Mr. Das, cannot be held to be the signature of the respondent No. 1. Mr. Das cited a decision of the Supreme Court in HINDUSTAN CONSTRUCTION CO. Vs. UNION OF INDIA, AIR 1967 SC 526, for his submission that to write one's name is signature. Mr. Das further submitted that assuming that the Misc. Case petition can be entertained by the court this is not a case in which the election petition is liable to be dismissed under section 86 of the RP Act, 1951. He pointed out that the election petition has been filed on 20-11-1999 within forty-five days of the date of election of the respondent No. 1 on

7-10-1999 and, therefore, there is compliance with the provisions of section 81(1) of the RP Act, 1951. The fact that in the copy of the election petition served on respondent No. 1, the verification appears to have been signed on 28-11-1999 instead of 20-11-1999 cannot be a ground for dismissal of the election petition. Mr. Das cited a decision of the Supreme Court in *RP MOUDUTTY Vs. PT KUNJU MOHAMMAD*, (2000) 1 SCC 481, for his submission that a defect in the verification is curable and not fatal to the election petition. Regarding the contention of Mr. Dutta, learned counsel for the respondent No. 1, that Abul Khayer, a contesting candidate, has not been impleaded as a respondent to the election petition, he submitted that in fact Abul Khayer has been impleaded as respondent No. 11, but his name has been incorrectly spelt in the election petition. Thus, there is compliance with the provisions of section 82 of the RP Act, 1951, in as much as all the contesting candidates including Abul Khayer have been impleaded as respondents in the election petition. In reply to the contention of Mr. Dutta that the endorsements made by the Commissioner of Oath in the original election petition have not been copied out in the copy of the election petition served on respondent No. 1, Mr. Das submitted that an affidavit in which the said endorsements have been made by the Commissioner of Oath is only required in support of the allegations of corrupt practice made in an election petition, but the main thrust in the present election petition is with regard to re-counting of votes and not with regard to corrupt practice. According to Mr. Das, therefore, the election petition cannot be dismissed under section 86 of the RP Act, 1951, at the threshold for non-compliance with the provisions of section 81(3) of the said Act, 1951, and the election petition should be tried after the respondents file their written statements.

4. In view of the aforesaid contentions raised by the learned counsel for the parties, the first question that needs to be decided is whether the Misc. Case petition for dismissing the election petition should be rejected on the ground that the Misc. Case petition has not been signed by the respondent No. 1. This question is relevant because under Order 6, rule 14 of the Code of Civil Procedure, 1908, every pleading is to be signed by the party and his pleader (if any). The proviso to Order 6 rule 14, however, states that where a party pleading is, by reason of absence or for other good cause, unable to sign the pleading, it may be signed by any person duly authorised by him to sign the same or to sue or defend on his behalf. In *HINDUSTAN CONSTRUCTION CO Vs. UNION OF INDIA*, (supra), cited by Mr. Das, learned counsel for the election petitioner, the Supreme Court had the occasion to consider the meaning of the word "sign", and in paragraph-6 of the said judgment as reported in AIR 1967 SC 526, held:

"This brings us to the meaning of the word 'sign' as used in the expression 'signed copy'. In Webster's New World Dictionary the word 'sign' means 'to write one's name on, as in acknowledging authorship, authorising action, etc. To write one's name is signature. Section 3(56) of the General Clauses Act No. 10 of 1897, has not defined the word 'sign' but has extended its meaning with reference to a person who is unable to write his name to include 'mark' with its grammatical variations and cognate expressions. This provision indicates that signing means writing one's name on some document or paper. In *Mohesh Lal Vs. Busunt Kumaree*, (1881) ILR 6 Cal. 340, a question arose as to what 'signature' meant in connection with S 20 of the Limitation Act, No. IX of 1871. It was observed that 'where a party to a contract signs his name in any part of it in such a way as to acknowledge that he is the party contracting that is sufficient signature'. It was further observed that the document must be signed in such a way as to make it appear that the person signing it is the author of it, and if that appears it does not matter what the form of the instrument is, or in what part of it the signature occurs."

In the aforesaid judgment, therefore the Supreme Court has held that all that the signature must show is that the person signing is the author of it. On the first page of the Misc. Case petition, it appears

that just below the purported signature of the respondent No. 1, the name of the respondent No. 1 has been stated. The verification appended to Misc. Case petition also indicates that the respondent No. 1 has himself signed the verification. The aforesaid purported signatures on the first page of the Misc. Case petition and at the foot of the verification appended to the Misc. Case petition tally with the signature of the respondent No. 1 in the Vakalatnama filed in Election Petition No. 1 of 1999. The respondent No. 1 is, therefore, the author of the purported signature on the Misc. Case petition and it is unclear to accept the contention of Mr. Das, learned counsel for the election petitioner, that the respondent No. 1 has not signed the Misc. Case petition. The Misc. Case petition for dismissal of the election petition under section 86(1) of the RP Act, 1951 on the ground that it does not comply with the provisions of sections 81 and 82 of the said Act, 1951, cannot be rejected on the ground that it has not been signed by the respondent No. 1.

5. The next question to be decided is whether the election petition is liable to be dismissed under section 86(1) of the RP Act, 1951 on the ground that it does not comply with section 81(1) of the said Act, 1951. The said section 81(1) provides that an election petition has to be presented within forty-five days from the date of election of the returned candidate. In the instant case, the returned candidate was elected on 7-10-1999 and the election petition has been presented in this court on 20-11-1999 as would appear from the date of filing stamped on the first page of the election petition. The affidavit and the verification appended to the election petition have also been signed by the election petitioner on 20th November, 1999. Hence the election petition has been presented within forty-five days from the date of election of the returned candidate and the provisions of section 81(1) of the RP Act, 1951 have been complied with. It however appears from the copy of the election petition meant for the respondent No. 1 that in the verification the date 28-11-1999 has been indicated as the date on which the verification has been signed. The said date has been corrected as 20-11-1999 in the verification appended to the original election petition presented in court but has not been corrected in the copy of the election petition meant for the respondent No. 1. Such inadvertent mistake in the verification appended to the copy of the election petition served on the respondent No. 1 does not amount to non-compliance with the provisions of section 81(1) of the RP Act, 1951. The contention of Mr. Dutta, learned counsel for the respondent No. 1 that the election petition is liable to be dismissed under section 86 of the RP Act, 1951, for non-compliance with the provisions of section 81(1) thus has no merit.

6. Coming now to the question as to whether the election petition is liable to be dismissed under section 86 of the RP Act, 1951, for non-compliance with the provisions of section 82 of the said Act, 1951, the said section 82 requires that where the petitioner, in addition to claiming declaration that the election of the returned candidate is void, claims a further declaration that he himself or any other candidate has been duly elected, all the contesting candidates other than the petitioner are to be joined

as respondents to the election petition. In the present election petition, in addition to a declaration that the election of the respondent No. 1 is void, a similar declaration has been sought that the petitioner has been duly elected. Thus, under section 82 of the RP Act, 1951, all the contesting candidates other than the petitioner in respect of No. 9 Tezpur Parliamentary Constituency from which the respondent No. 1 has been declared elected had to be joined as respondents to the election petition. According to Mr. Dutta, learned counsel appearing for the respondent No. 1, Sri Abul Khayer who was also a contesting candidate from the said Parliamentary Constituency, has not been joined as a respondent to the election petition, and in his place one Sri Abdul Khyer has been joined as respondent No. 11. Along with the election petition, a copy of the Return of Election in Form 21-E under rule 64 of the Conduct of Elections Rules, 1961, has been filed as Annexure-1, and on a comparison of the names of different candidates mentioned in the said Return of Election with the names of the respondents to the election petition, it appears that respondent Nos. 7 to 18 have been joined as respondents to the election petition as they had contested as candidates along with the petitioner and the respondent No. 1 in the election for No. 9 Tezpur Parliamentary Constituency held in September-October, 1999. Thus, it is clear that the election petitioner had intended to implead Sri Abul Khayer as respondent No. 11 to the election petition, but the name of Sri Abul Khayer has been wrongly spelt as Sri Abdul Khyer. In *NOROSINGH TRIFATHY v. GURUBARU MAJHI & ORS.*, ILR (1981) 1 Cuttack 39(43), the Orissa High Court has held that where the intention of the election petitioner certainly was to implead the respondent as a party to the election petition, the election petition cannot be dismissed under section 86(1) of the RP Act, 1951, merely on the ground of mistake, if any, in spelling the name of the respondent. I am, therefore, of the considered opinion that Sri Abul Khayer who had contested the aforesaid election has been sought to be impleaded as respondent No. 11 to the election petition and, therefore, the election petition cannot be dismissed under section 86(1) of the RP Act, 1951, on the ground of non-compliance with the provisions of section 82 which requires that all the contesting candidates other than the petitioner have to be joined as respondents to the election petition where a declaration is sought that the petitioner or any other contesting candidates has been duly elected.

7. The last question which has to be decided is whether the election petition is liable to be dismissed at the threshold under section 86 of the RP Act, 1951, for non-compliance with the provisions of section 81(3) of the said Act, 1951. As indicated above, section 81(3) provides that every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition, and every such copy shall be attested by the petitioner under his own signature to be true copy of the petitioner. The case of the respondent No. 1 is that copy of the affidavit accompanying the election petition, in which the election of the respondent No. 1 has been challenged on the ground that the respondent No. 1, his agents or his people have adopted corrupt practice at the election, does not contain the affirmation or endorsements made by the Commissioner of

Oath while the original election petition contains the said endorsements of the Commissioner of Oath.

8. In *DR. SHIPRA (Smt.) v. SHANTI LAL KHOJWAL* (supra), (1996) 5 SCC 181, cited by Mr. Dutta, learned counsel for the respondent No. 1, the aforesaid question came up for consideration and K. Ramaswamy, J. held :

".... Verification by a Notary or any other prescribed authority is a vital act which assures that the election petitioner had affirmed before the Notary etc. that the statement containing imputation of corrupt practice was duly and solemnly verified to be correct statement to the best of his knowledge or information as specified in the election petition and the affidavit filed in support thereof; that reinforces the assertions. Thus affirmation before the prescribed authority in the affidavit and the supply of its true copy should also contain such affirmation so that the returned candidate would not be misled in his understanding that imputation of corrupt practices was solemnly affirmed or duly verified before the prescribed authority..."

"... Sections 81, 83(1)(c) and 86 read with Rule 94-A of the Rules and Form 25 are to be read conjointly as an integral scheme. When so read, if the court finds on an objection, being raised by the returned candidate, as to the maintainability of the election petition, the court is required to go into the question and decide the preliminary objection. In case the court does not uphold the same, the need to conduct trial would arise. If the court upholds the preliminary objection, the election petition would result in dismissal at the threshold, as the court is left with no option except to dismiss the same."

Bharucha J. and Paripoornan, J. agreed with the aforesaid judgment of K. Ramaswamy, J., but supplemented the judgment of K. Ramaswamy, J. with their own respective judgments. In the aforesaid judgment, therefore, the Supreme Court has held that the true copy of the affidavit supplied for the respondent under section 81 of the RP Act, 1951 should also contain the affirmation by the election petitioner before the Notary or the prescribed authority and where the copy of the affidavit of the election petition does not contain such affirmation, the election petition has to be dismissed at the threshold, and the court has no option but to dismiss the same.

9. The aforesaid decision in the case of *DR. SHIPRA (Smt.) v. SHANTI LAL KHOJWAL* has been followed by the Supreme Court in *HARCHARAN SINGH JOSHI v. HARI KISHAN*, (supra), (1997) 10 SCC 294, and it has been held therein:

"It is not necessary for us to go into the grounds on which the election petition was dismissed by the High Court, Suffice it to state that the objections raised by the respondent regarding non-supply of the true copy of the affidavit is a formidable objection which merits accep-

tance in view of the recent judgment of this Court in *Supra* (Dr.) v. Shanti Lal Khoiwal wherein the copy of the affidavit supplied to the respondent was not attested by the Oath Commissioner. This Court, after considering the entire case-law, held that affirmation before the prescribed authority in the affidavit and the supply of its true copy is mandatory so that the returned candidate would not be misled in his understanding that imputation of the corrupt practices were solemnly affirmed and duly verified before the prescribed authority. For that purpose, Form 25 prescribed by Section 83 requires verification before the prescribed authority. The concept of substantial compliance has no application in such a case. It is seen that the copy of the affidavit supplied of the respondent does not contain the affirmation by the Oath Commissioner. Under these circumstances, the defect is not a curable defect. Therefore, the dismissal of the election petition on this ground is sustainable in law."

In the aforesaid decision in the case of *HARCHARAN SINGH v. HARI KISHAN*, therefore, the Supreme Court held that where the copy of the affidavit supplied to the respondent did not contain the affirmation by the Oath Commissioner, the election petition was liable to be dismissed.

10. In *T. M. JACOB v. C. POULOSE*, (supra), (1998) 2 SCC 31, a Bench of three Judges of the Supreme Court held that the decision of the Supreme Court in *DR. SHIPRA* (Smt.) (supra) required consideration by a larger Bench to decide whether the said decision would apply even to a case where the name and designation of the Notary and the Seal and Stamp of the Notary did not appear in the copy of the affidavit supplied to the respondent. Thereafter, a larger Bench considered the same and held in its judgment reported in (1999) 4 SCC 293 that the judgment in the case of *DR. SHIPRA* (Smt.) v. *SHANTI LAL KHOIWAL* (supra) was confined to the facts of that case and had no application to the facts of the case in *T. M. JACOB v. C. POULOSE*. The larger Bench in the case of *T. M. JACOB v. C. POULOSE* (1999) 4 SCC 274, has not in any way over-ruled the decision in the case of *DR. SHIPRA* (Smt.) v. *SHANTI LAL KHOIWAL* (Supra), (1996) 5 SCC 181.

11. Thus, applying the aforesaid decisions of the Supreme Court in *DR. SHIPRA* (Smt.) v. *SHANTI LAL KHOIWAL* and *HARCHARAN SINGH v. HARI KISHAN* (supra), the election petition in the present case is liable to be dismissed at the threshold on the ground that the copy of the affidavit supplied to the respondent No. 1 does not contain the affirmation by the petitioner before the Commissioner of Oath or the endorsement by the Commissioner of Oath, Mr. Das, learned counsel for the election petitioner, however submitted that an affidavit is only required where the main thrust in the election petition is on corrupt practices having been adopted by the returned candidate or his agents or his people as would be clear from the proviso to section 83(1) of the R.P. Act, 1951, but in the present case the main thrust is not on such corrupt practices alleged to have been adopted by the respondent No. 1 his agents or his people but on

re-counting of votes. I am unable to agree with the submission advanced by Mr. Das. On a perusal of the entire election petition, it appears that the main thrust of the election petition is that the respondent No. 1, his agents and his people have resorted to booth capturing and rigging in different polling stations and therefore have adopted corrupt practices at the election. Moreover, it appears from the copy of the Return of Election in Form 21-B under rule 64 of the Conduct of Elections Rules, 1961 (Annexure-1 to the election petition) that while the election petitioner has polled 2,05,178 votes, the respondent No. 1 has polled 2,30,884 votes, the difference in the votes polled by the election petitioner and the respondent No. 1 is therefore 25,706 votes. With such difference in the number of votes polled by the petitioner and the respondent No. 1, no re-counting can be ordered unless corrupt practice by the respondent No. 1, his agents or his people as alleged in the election petition is established before the court. The relief of re-counting is therefore fully dependent on the allegation of corrupt practice by the respondent No. 1, his agents or his people in the election petition and the relief of re-counting cannot be considered independent of the said allegation of corrupt practice in the election petition. The contention of Mr. Das that the main thrust of the election petition is on re-counting and not on corrupt practice by the respondent No. 1 his agents or his people is mis-conceived.

12. For the reasons stated above, Civil Misc. Case No. 28 of 2K is allowed, and the Election Petition No. 1 of 1999 is dismissed under section 86(1) of the RP Act, 1951, for non-compliance with the provisions of sub-section (3) of section 81 of the said Act, 1951. Considering the fact that the election petition has been dismissed at the threshold, I leave the parties to bear their respective costs.

Sd/-

A. K. PATNAIK, Judge

[No. 82/AS-HP/(1/1999)/2000]

By order

K. J. RAO, Secy.

ग्रहिश

नई दिल्ली, 23 अक्टूबर, 2000

आ.अ. 185 :—यतः निर्वाचन आयोग का समाधान हो गया है कि सन 1999 में 128-सावरपेट विधान सभा निर्वाचन क्षेत्र से कर्नाटक विधान सभा के लिए हुए साधारण निर्वाचन में निर्वाचन लड़ने वाली एक अभ्यर्थी श्रीमती के.पी. चन्द्रकला, गुम्मानकोल्ली गांव, कुशालनगर, कर्नाटक को लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 10क के अधीन आयोग के आदेश सं. 76/कर्ना-वि.स./99 तारीख 7-8-2000 द्वारा अपने निर्वाचन व्ययों का लेखा उक्त अधिनियम तथा तदधीन बनाए गए नियमों और किए गए आदेशों द्वारा यथा अपेक्षित अपने निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहने के कारण निर्वाचित किया गया था, ओर

2. यतः उक्त श्रीमती के. पी. चन्द्रकला ने उक्त निरर्हत को हटाने के लिए कारण बताते हुए भारत निर्वाचन आयोग के सम्मुख एक अर्जी प्रस्तुत की है, और

3. यतः उक्त अर्जी पर विचार करते हुए और इस मामले से सम्बन्धित तथ्यों और दस्तावेजों के आधार पर उक्त अर्जी पर विचार करने के पश्चात् निर्वाचन आयोग ने लोक प्रतिनिधित्व अधिनियम, 1951 की धारा 11 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिनियम की धारा 10क के अधीन उक्त श्रीमती के. पी. चन्द्रकला पर आरोपित निरर्हता तारीख 23 अक्टूबर, 2000 के अपने आदेश द्वारा हटा दी है।

4. अतः अब, आयोग के आदेश सं. 76/कर्ना-वि. सं. 99, तारीख 07-08-2000 में क्रम सं. 2 में प्रकट हो रहा उक्त श्रीमती के. पी. चन्द्रकला का नाम उक्त आदेश से तारीख 07-08-2000 से हटा दिया गया समझा जाएगा।

[सं. 76/कर्ना-वि. सं./99]

आदेश से
बाबूराम सचिव

ORDER

New Delhi, the 23rd October, 2000

O.N. 185.—Whereas, Smt. K. P. Chandrakala, Gummarkolly village, Kushalnagar, Karnataka who contesung the General Election to the Karnataka Legislative Assembly held in 1999 from 128-Sowarpet Assembly Constituency was disqualified under Section 10A of the Representation of the People Act, 1951 (43 of 1951) vide its order No. 76/KT-LA/99, dated 7-8-2000 for failure to lodge an account of her election expenses as required by the said Act and the rules and orders made thereunder; and

2. Whereas, the said Smt. K. P. Chandrakala has submitted a petition before the Election Commission of India for the removal of the said disqualification giving reasons thereunder; and

3. Whereas, after considering the said petition and on the basis of the facts and documents relating to the case, the Election Commission, in exercise of the powers conferred by Section 11 of the Representation of the People Act, 1951 has vide its order dated 23rd October, 2000 removed the disqualification imposed under Section 10A of the said Act, on the said Smt. K. P. Chandrakala.

4. Now, therefore, the name of the said Smt. K. P. Chandrakala, appearing at Sl. No. 2 in Commission's order No. 76/KT-LA/99, dated 7-8-2000 shall be deemed to have been omitted from the said order with effect from 7-8-2000.

[No. 76/KT-LA/99]

By Order,
BABU RAM, Secy.

आदेश

नई दिल्ली, 1 नवम्बर, 2000

आ. अ. 186.—यतः सन 1999 में 132-गुडुर (अ. जा.) विधान सभा निर्वाचन क्षेत्र में आन्ध्र प्रदेश की विधान सभा के लिए हुए साधारण निर्वाचन में लड़ने वाले एक अभ्यर्थी श्री कोंडापुरम रामम्मा, पुटचालापल्ली (ग्रा.) सिददावरम (पोस्ट) कोटा मंडल, जिला नेल्लोर, आन्ध्र प्रदेश को लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 10क के अधीन आयोग के आदेश सं. 76/आन्ध्र वि. सं. 99 तारीख 07-08-2000 द्वारा उक्त अधिनियम और तदधीन बनाए गए नियमों और किए गए आदेशों द्वारा यथा अपेक्षित अपने निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहने के कारण निरर्हत किया गया था, और

2. यतः उक्त श्री कोंडापुरम रामम्मा ने उक्त निरर्हत को हटाने के लिए कारण बताते हुए भारत निर्वाचन आयोग के सम्मुख एक अर्जी प्रस्तुत की है, और

3. यतः उक्त अर्जी पर विचार करते हुए और इस मामले से सम्बन्धित तथ्यों और दस्तावेजों के आधार पर, निर्वाचन आयोग ने लोक प्रतिनिधित्व अधिनियम, 1951 की धारा 11 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम की धारा 10क के अधीन उक्त श्री कोंडापुरम रामम्मा पर आरोपित निरर्हता तारीख 1-11-2000 से शेष अवधि के लिए हटा दी है।

4. अतः अब उक्त श्री कोंडापुरम रामम्मा का नाम, जो आयोग के आदेश सं. 76/आन्ध्र वि. सं. 99 तारीख 07-08-2000 में क्रम सं. 1 पर प्रकट है, तारीख 1-11-2000 से उक्त आदेश से हटा दिया गया समझा जाएगा।

[सं. 76/आन्ध्र-वि. सं./99]

आदेश से,
बाबू राम सचिव

ORDER

New Delhi, the 1st November, 2000

O.N. 186.—Whereas, Shri Kondapuram Ramamma, Putchalapalli(v), Siddavaram (Post), Kota Mandal, Nellore District, Andhra Pradesh, who contesting the General Election to the Andhra Pradesh Legislative Assembly held in 1999 from 132-Gudur (SC) Assembly Constituency was disqualified under Section 10A of the Representation of the People Act, 1951 (43 of 1951) vide its order No. 76/AP-LA/99, dated 7-9-2000 for failure to lodge an account of his election expenses as required by the said Act and the rules and orders made thereunder. and

2. Whereas, the said Shri Kondapuram Ramamma, has submitted a petition before the Election Commission of India for the removal of the said disqualification giving reasons thereunder; and

3. Whereas, after considering the said petition and on the basis of the facts and documents relating to

the case, the Election Commission, in exercise of the powers conferred by Section 11 of the Representation of the People Act, 1951 has vide its order dated 1-11-2000 removed the disqualification imposed under Section 10 of the said Act, on the said Shri Kondapuram Ramamma, w.r.t., from 1-11-2000 for the remaining period.

4. Now, therefore, the name of the said Shri Kondapuram Ramamma, appearing at Sl. No. 1, in Commission's order No. 76/AP-LA/99, dated 7-9-2000, shall deem to have been omitted from the said order with effects from 1-11-2000.

[No. 76/AP-LA/99]
By Order,
BABU RAM, Secy.

आदेश

नई दिल्ली, 2 नवम्बर, 2000

आ.अ. 187-104-फूलबनी (प्र. जा.) विधान सभा निर्वाचन क्षेत्र से, उड़ीसा विधान सभा के लिए साधारण निर्वाचन में, जो फरवरी, 2000 में हुआ था, निर्वाचन लड़ने वाले एक अभ्यर्थी श्री उग्रेसन नायक सुपुत्र कुंजा नायक, ग्राम-नबगुबा, डाकघर बालासकुम्पा, जिला- कन्धामल, उड़ीसा को लोक प्रतिनिधित्व अधिनियम 1951 की धारा 10क के अधीन निर्वाचन आयोग के 7 जुलाई 2000 के आदेश सं. 76/उड़ीसा वि. स./2000 द्वारा उक्त अधिनियम के ओर तदधीन बनाए गए नियमों द्वारा अपेक्षित रीति से लेखा दाखिल करने में असफल रहने के कारण निरहता कर दिया था,

और यतः श्री उग्रेसन नायक ने उक्त निरहता को हटाने के लिए एक अभ्यावेदन दिया था;

और यतः उक्त अभ्यावेदन पर विचार करने और मामले के सभी सारवान तथ्यों को ध्यान में रखने के बाद निर्वाचन आयोग, लोक प्रतिनिधित्व अधिनियम 1951 की धारा 11 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिनियम की धारा 10क के अधीन 7 जुलाई, 2000 के आयोग के आदेश द्वारा श्री उग्रेसन नायक पर अध्यारोपित निरहता को 2 नवम्बर, 2000 से असमाप्त अवधि के लिए निरहता हटाता है।

अतः अब उक्त श्री उग्रेसन नायक का नाम आयोग के 7 जुलाई 2000 के आदेश सं. 76/उड़ीसा-वि. स./2000 में से 2 नवम्बर, 2000 से हटा लिया गया समझा जाएगा।

[सं. 76/उड़ीसा-वि. स./2000]

आदेश से,
बाबुराम, सचिव

ORDER

New Delhi, the 2nd November, 2000

O.N. 187.—Whereas, Shri Ugresan Nayak, S/o Kunja Nayak, Vill. Nabaguba, P.O. Balaskumpa, District Kandhamal, Orissa, a contesting candidate at the General Election to the Orissa Legislative Assembly from 104-Phulbani (SC) Assembly Constituency held in February, 2000, was disqualified by the Election Commission of India vide its order No. 76/OR-LA/2000 dated 7th July, 2000 under section 10A of the Representation of the People Act, 1951 for failure to lodge an account of his election expenses in the manner as required by the said Act and Rules made thereunder;

And Whereas, Shri Ugresan Nayak has made a representation for removal of the said disqualification;

And whereas, on consideration of the said representation and after taking into account all material facts of the case, the Election Commission, in exercise of the powers conferred by section 11 of the Representation of the People Act, 1951, has removed the disqualification of Shri Ugresan Nayak imposed upon him by the Commission's order dated 7th July, 2000 under section 10A of the said Act, for the unexpired period with effect from 2nd November, 2000;

Now, therefore, the name of the said Shri Ugresan Nayak shall be deemed to have been omitted from the Commission's Order No. 76/OR-LA/2000 dated 7th day, 2000 with effect from 2nd November, 2000.

[No 76/OR-LA/2000]

By Order,
BABU RAM, Secy.

आदेश

नई दिल्ली, 7 नवम्बर, 2000

आ.अ. 188:—यतः निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा-विनिर्दिष्ट दिल्ली राष्ट्रीय राजधानी राज्य क्षेत्र की विधान सभा के साधारण निर्वाचन के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन-क्षेत्र से हुआ है स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला व्यक्ति अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तदधीन बनाए गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथा दर्शित अपने निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहा है;

और यतः, उक्त अभ्यर्थियों ने सगम्बू नूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण अथवा स्पष्टीकरण नहीं दिया है या उनके द्वारा दिए गए अभ्यावेदनों पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है;

अतः अब, निर्वाचन आयोग एतद्वारा उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य/संघ राज्य-क्षेत्र की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख में तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

सारणी

क्र. सं.	निर्वाचन का विवरण	विधान सभा निर्वाचन-क्षेत्र की क्रम सं. और नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम और पता	निरर्हता का कारण
1.	2.	3.	4.	5.
1.	दिल्ली राष्ट्रीय राजधानी राज्य-क्षेत्र के लिए साधारण निर्वाचन, 1998	6—ओखला	श्री असरफ खान, डी-258, मधुन फज़ल इन्कलेव, ओखला, दिल्ली।	निर्वाचन व्यर्थों का कोई भी लेखा दाखिल करने में असफल रहे।
2.	—वही—	—वही—	श्री अमिरुद्दीन, 503/43, मदिना मस्जिद, जाकिर नगर, दिल्ली।	—वही—
3.	—वही—	—वही—	श्री प्यारें लाल वेदवाल, जे-11, श्रीनिवाम पुरी, नई दिल्ली।	—वही—
4.	—वही—	51—यमुना विहार	श्री द्वारका प्रसाद, सी-7/121, यमुना विहार दिल्ली-53	—वही—
5.	—वही—	—वही—	श्री मोहन सिंह, 74-सी, डी डी ए फ्लैट्स, एफ-ब्लॉक, नन्द नगरी, दिल्ली-93	—वही—
6.	—वही—	—वही—	डा. पी आर शर्मा, सी-4/28, यमुना विहार, दिल्ली-53	—वही—
7.	—वही—	57—पहाड़गंज	श्री इकबाल अहमद, 4234 गली शहतरा, अजमेरी गेट, दिल्ली।	—वही—
8.	—वही—	—वही—	श्री अशोक कुमार गुप्ता, 4217 लेल मंडी, पहाड़गंज, नई दिल्ली-6	—वही—
9.	—वही—	—वही—	श्री नीरज कनागन, 3/71, पंजाबी बाग, नई दिल्ली।	—वही—
10.	—वही—	59—बल्लीमारन	श्री शिव प्रकाश वशिष्ठ, 6629 महान्दपि वशिष्ठ आश्रम अहाता किवारा, दिल्ली	—वही—
11.	—वही—	—वही—	श्री लक्ष्मी नारायण, 230, गली कान्हेले बसान, फतेहपुरी, दिल्ली।	—वही—

[सं. 76/दिल्ली-वि.स./99(9)]

आदेश से,
के. आर. प्रसाद, सचिव

ORDER

New Delhi, the 7th November, 2000

O.N. 188.—Whereas, the Election Commission of India is satisfied that the contesting candidates specified in column (4) of the table below at the General Election to the Legislative Assembly held from National Capital Territory of Delhi in November, 1998 as specified in column (2) and held from constituencies correspondingly specified in column (3) against their names have failed to lodge account of their election expenses, as shown in column (5) of the table, as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And whereas, the said candidates have either not furnished any reason or explanation for the said failure even after due notice of the Election Commission of India, after considering the representation made by them, if any, the Election Commission of India is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission of India hereby declares the persons specified in column (4) of the table below to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State/Union Territory for a period of three years from the date of this order.

TABLE

Sl. No.	Particulars of the election	Particulars of the assembly constituency	Name & Address of the contestant	Reason for disqualification
1	2	3	4	5
1.	General Election to the Legislative Assembly for NCT of Delhi, 1998.	6—Okhla	Sh. Ashraf Khan, D-258, Abul Fajal Enclave, Okhla.	Failed to lodge any account of election expenses.
2.	—do—	—do—	Sh. Amiruddin, 503/43, Madina Masjid, Zakir Nagar, Delhi.	—do—
3.	—do—	—do—	Sh. Pyare Lal Vedwal, J-61, Srinivas Purj, New Delhi.	—do—
4.	—do—	51—Yamuna Vihar	Sh. Dwarka Prasad, C-7/121, Yamuna Vihar, Delhi—53.	—do—
5.	—do—	—do—	Sh. Mohan Singh, 74-C, DDA Flats, F-Block, Nand Nagri, Delhi—93.	—do—
6.	—do—	—do—	Dr. P. R. Sharma C-4/28, Yamuna Vihar, Delhi—53.	—do—
7.	—do—	57—Paharganj	Sh. Iqbal Ahmed, 4234, Gali Shahtara, Ajmeri Gate, Delhi.	—do—
8.	—do—	—do—	Sh. Ashok Kumar Gupta, 4217, Tel Mandi, Paharganj, New Delhi—6.	—do—

1	2	3	4	5
9.	Gen. Election to the Legislative Assembly, NCT of Delhi, 1998	57—Paharganj	Sh. Necraj Kanagat, 3/71, Punjabi Bagh, New Delhi.	Failed to lodge any account of election expenses
10.	—do—	59—Ballimaran	Sh. Shiv Prakash Vashishth, 6629, Maharishi Vashishth Ashram, Ahata Kidara, Delhi.	—do—
11.	—do—	—do—	Sh. Laxmi Narain, 230, Gali Kandle Kasan, Fatehpuri, Delhi.	—do—

[No. 76/DL-LA/99 (9)]

By Order

K. R. PRASAD, Secy.

आदेश

नई दिल्ली, 7 नवम्बर, 2000

आ. अ. 189.—अतः, निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में विनिर्दिष्ट निर्वाचन के लिये जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन-क्षेत्र से हुआ है स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी, लोक-प्रतिनिधित्व अधिनियम, 1951 तथा तद्वीन बनाये गये नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथा दर्शित अपने निर्वाचन व्ययों का लेखा अपेक्षित रीति में दाखिल करने में असफल रहा है, और

यतः, उक्त अभ्यर्थियों ने सम्बन्ध सूचना दिये जाने पर भी उक्त असफलता के लिये कोई कारण अथवा स्पष्टीकरण नहीं दिया है और निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिये कोई पर्याप्त कारण या व्यायौचित्य नहीं है।

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी मदन के या किसी राज्य क्षेत्र की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिये इस आदेश की तारीख से तीन वर्ष की कालावधि के लिये निरहित घोषित करता है:—

सारणी

क्र.सं.	निर्वाचन का विवरण	विधान सभा निर्वाचन क्षेत्र की सं. और नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम और पता	निरर्हता का कारण
1	2	3	4	5
1.	विधान सभा का साधारण निर्वाचन, 2000	16—सेकमाइ (अ. जा.)	निगंतोउजाम विरेन फायेग खारंग मणिपुर	निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल रहे।
2.	—वही—	17—लामसंग	अनोवाम चिदानंदा शर्मा लुकेर माई लेईकाई मणिपुर	—वही—

1	2	3	4	5
3	विधान सभा का साधारण निर्वाचन, 2000	23-मायंग इम्फाल	खोमद्राम अगमजाओ मिह मायंग इम्फाल हेइगाम यगवाई लाइकाई, मणिपुर	निर्वाचन व्यर्थों का कोई भी लेखा दाखिल करने में असफल रहे।
4	-वही-	53-तामेलोग (अ. ज. जा.)	जी फेनरोंग खोगजारोन खुन्थक, मणिपुर	-वही-
5	-वही-	57-हन्गलेप (अ. ज. जा.)	चुगलाल गंगटे जेलमान खुन्तौ बी. पी. ओ. मोइरंग, मणिपुर	-वही-
6	-वही-	-वही-	हेजंग हाओकिप, के मलबाग चुराचन्दपुर, मणिपुर	-वही-
7	-वही-	-वही-	लेटखोपाओ हाओकिप बेग इम्फाल, मणिपुर	-वही-
8	-वही-	-वही-	तेनखांहाव, लाहनजग विलेज, पी. बी. ओ. तुईलाफाई चुराचन्दपुर, मणिपुर	-वही-
9	-वही-	-वही-	थोनगखोलुम जोल्ड लामबुलेन, इम्फाल, मणिपुर	-वही-

[स 76/मणिपुर-वि.स /2000]

आदेश से,

के. आर. प्रसाद, सचिव

ORDER

New Delhi, the 7th November, 2000

O. N. 189 .—Whereas, the Election Commission is thus satisfied that each of the contesting candidate specified in column (4) of the Table below at the election specified in column (2) held from the constituency specified in column (3) against his name has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951 and Rules and Orders made thereunder as shown in column (5) of the said Table ; and

Whereas, the said candidates have not furnished any reason or explanation for said failure even after due notice and the Election Commission is thus satisfied that they have no good reason or justification for the said failure.

Now, therefore, in pursuance of section 10 A of the Representation of the People Act, 1951, the Election Commission hereby declares the said persons specified in column (4) of the Table below to be disqualified for being chosen as, and for being a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

TABLE

Sl. No.	Particulars of elections	No. & Name of A. C.	Name & Address of contesting candidate	Reason for disqualification
1	2	3	4	5
1	Gen. Election to Leg. Assembly, 2000	16-Sekmai (SC)	Ningthoujam Biren, Phayenng Kharang, Manipur	Failed to lodge any account of election expenses.
2	-do-	17-Lamsang	Anoubam Chidananda Sharma, Luker Mayai Leikai, Manipur	—do—
3	-do-	23-Mayang Imphal	Khomdram Angangjao Singh, Mayang Imphal Heingum Yangbi Laikai, Manipur	-do-
4	-do-	53-Tamenglong (ST)	G. Phenrong, Khongjaron Khunthak, Manipur	-do-
5	-do-	57-Henglep (ST)	Chunglal Gangte, Gelmon Khunou BPO Moirang, Manipur	-do-
6	-do-	-do-	Hejang Haokip, K. Salbung, Churachandpur, Manipur	-do-
7	-do-	-do-	Letkhopao, Haokip Veng, Imphal, Manipur	-do-
8	-do-	-do-	Thenkhohao, Lhanjang Village, BPO : Tuilaphai, Churachandpur, Manipur	-do-
9	-do-	-do-	Thongkholun, Old Lambulane, Imphal, Manipur	-do-

[No. 76/MR-LA/2000]

By Order,
K. R. PRASAD, Secy.